

Introduced by Senator Anderson

February 22, 2013

An act to add Section 585.1 to the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 702, as introduced, Anderson. Application for entry of default judgment.

Existing law provides that a default judgment may be taken upon written application of the plaintiff if the defendant fails to answer the complaint, as specified. Existing law also authorizes the court to permit the use of affidavits, in lieu of personal testimony, as to all or any part of the evidence or proof required or permitted to be offered in those cases.

This bill would require the plaintiff's application for entry of a default judgment to include specified information, and would authorize a party that has been permitted by the court to use affidavits in lieu of personal testimony to use affidavits to comply with those requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 585.1 is added to the Code of Civil
- 2 Procedure, to read:
- 3 585.1. (a) A plaintiff applying for entry of a default judgment
- 4 pursuant to Section 585 shall include in the application all of the
- 5 following:
- 6 (1) The name of the plaintiff.

1 (2) A statement that the plaintiff is the sole party entitled to the
2 money or damages at issue, or has authority to assert the rights of
3 all parties entitled to the money or damages at issue.

4 (3) The original or a copy of the written agreement giving rise
5 to the claim for money or damages, or the original or a copy of
6 any other document demonstrating that the defendant agreed to,
7 or otherwise incurred, the obligation giving rise to the claim for
8 money or damages.

9 (4) The amount of money or damages sought.

10 (5) The amount of costs, if any, sought and the basis therefor.

11 (6) The amount of attorney's fees, if any, sought and the basis
12 therefor.

13 (7) A proof of service of summons for each party to be included
14 in the default judgment.

15 (8) A request to enter default, if not already filed, pursuant to
16 Rule 3.1800 of the California Rules of Court.

17 (9) A proposed form of judgment.

18 (10) Any other information required by the court.

19 (b) A party seeking the entry of a default judgment pursuant to
20 subdivision (d) of Section 585 who has been authorized to use
21 affidavits in lieu of personal testimony may use affidavits in order
22 to comply with this section.